

Health and Safety Code Section 116367.

(a) The Legislature finds and declares that oxygenated gasoline has contaminated groundwater and surface water used for drinking water purposes. The Legislature further declares that it is in the public interest to provide funding to pay for corrective action needed to protect public health and the environment as a result of oxygenate contamination of drinking water.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Drinking water fund" or "fund" means the Drinking Water Treatment and Research Fund created pursuant to subdivision (c).

(2) "Financial hardship" means a public water system does not have sufficient resources not otherwise dedicated for a specified purpose, including, but not limited to, debt service requirements, to pay for necessary treatment works, conduct an investigation into the source of contamination, or acquire alternate drinking water supplies and leave sufficient reserves available to enable the system owner or operator to address economic uncertainties to pay for contingencies.

(3) "Oxygenate" has the same meaning as oxygenate as defined in Section 25299.97.

(4) "Public water system" means a public water system, as defined in Section 116275.

(5) "Drinking water supply" means a source of drinking water that has been approved by the department.

(c) The Drinking Water Treatment and Research Fund is hereby created in the State Treasury.

(d) Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated, without regard to fiscal years, to the department for all of the following purposes:

(1) To make payments to a public water system for the incremental costs of treating groundwater and surface water used for drinking water purposes that has been contaminated by an oxygenate if the level of contamination exceeds the lowest of any primary or secondary drinking water standard adopted pursuant to Section 116365 or 116610. Treatment for surface water shall be for surface water that supplies water to a treatment facility for a water supply system that serves domestic uses.

(2) To make payments to a public water system for the costs of investigating the possible source and extent of contamination when the department determines that an oxygenate is detected at any level in groundwater supplies utilized by a public water system for drinking water purposes as provided in subdivision (k). Costs eligible for payment under this paragraph may include the costs of acquiring alternate drinking water supplies if the well is required by the department or a California regional water quality control board to be shut down or its use curtailed during the investigation. Costs eligible for payment under this paragraph include the costs of connecting a public water system to another public water system or constructing a new drinking water well.

(3) To make payments to a public water system for the incremental costs of acquiring alternate drinking water supplies to replace supplies contaminated by an oxygenate at a level that exceeds the lowest of any primary or secondary drinking water standard adopted pursuant to Section 116365 or 116610. Costs eligible for payment under this paragraph include the costs of connecting a public water system to another public water system or constructing a new drinking water well.

(4) To conduct research and develop cost-effective treatment technologies to treat drinking water contaminated by an oxygenate to meet primary or secondary drinking water standards and effective strategies to protect drinking water sources from contamination by oxygenates. The department shall not expend more than one million dollars (\$1,000,000) annually for these purposes and may enter into cooperative agreements with federal and state agencies, local agencies, or other persons to conduct research and development activities.

(5) To pay the administrative costs, not to exceed 5 percent, for the department to administer this section.

(6) To make payments to a public water system for the incremental costs of acquiring an alternate drinking water supply where the department has determined that a drinking water supply would become contaminated by an oxygenate at a level that exceeds the lowest of any primary or secondary drinking water standard if the public water system continues to use the drinking water supply.

(e) The department shall report annually to the Governor and to the Legislature on any moneys provided to a public water system pursuant to this section.

(f) (1) The department shall be reimbursed by a public water system that has received funds pursuant to this section, to the extent that the public water system receives payment from any source to cover the costs for which it received funding under this section. The public water system shall aggressively pursue cost recovery from responsible persons and, upon recovery, or within five years from the date on which the initial payment is received, whichever occurs first, shall reimburse the department for funds received pursuant to this section, unless the public water system demonstrates that despite all reasonable efforts, recovery from a responsible party is not possible, or that a responsible party cannot be identified. The department shall transfer any reimbursements received from a public water system into the fund or the Underground Storage Tank Cleanup Fund, whichever fund provided the moneys.

(2) Notwithstanding paragraph (1), the department may not require a public water system to pursue cost recovery from responsible persons for funds received pursuant to this section that total one million dollars (\$1,000,000) or less.

(g) The department may make payments pursuant to paragraphs (1), (2), and (3) of subdivision (d) without regard to when the contamination occurred or when costs for treating or investigating the source of contamination or acquiring replacement water were incurred, except that a public water system may not receive more than three million dollars (\$3,000,000) from the drinking water fund in any fiscal year unless the public water system makes a showing of financial hardship.

(h) (1) The department may make payments pursuant to paragraphs (1), (2), (3), and (6) of subdivision (d), without requiring a public water system to first incur expenditures, if the department determines that a situation exists that requires prompt action by the public water system to protect human health or the environment, or the public water system makes a showing of financial hardship.

(2) Upon a showing of financial hardship, pursuant to paragraph (1), the public water system shall present the department with a work plan that specifies the estimated costs of treatment, constructing a new drinking water well, or obtaining an alternate water supply. The estimated costs of treatment or constructing a new well to provide replacement water shall be prepared by a registered civil engineer or other registered professional. The estimated costs for acquiring an alternate water supply, other than a new well, shall be substantiated by an identification of necessary capital facilities to convey the water to the public water system and a written offer by another entity to provide the alternate water supply.

(3) The department shall prescribe forms and procedures for claims filed pursuant to this section as necessary to ascertain eligibility for payment and validity of incremental costs based on generally accepted accounting principles. The department shall not require an applicant to prepare an economic feasibility study regarding the acquisition of an alternate water supply. The department may require a description of site-specific information, including the origin of contamination, the petroleum products released, and the status of cleanup and abatement activities at potential leaking underground storage tank sites if that information is available to the applicant.

(4) The department shall provide payment within 60 days of receiving a claim filed pursuant to this section.

(5) A claim shall be deemed true and correct if not audited by the department within three years of payment.

(i) The department, in evaluating claims submitted for payment from the fund, shall consider the findings of the University of California report regarding the assessment undertaken pursuant to Section 3 of Chapter 816 of the Statutes of 1997, as those findings relate to the assessment of the human health and environmental risks and benefits, if any, associated with the use of MTBE in gasoline. In particular, the department shall consider findings in the report regarding the evaluations of the costs and effectiveness of treatment technologies available to remove MTBE from drinking water.

(j) Any funds transferred to the fund pursuant to Section 25299.99.1 may be used for the purposes of this section only if a public drinking water well has been contaminated by an oxygenate or if the department has determined that a drinking water supply would become contaminated by an oxygenate at a level that exceeds the lowest of any primary or secondary drinking water standard if the public water system continues to use the drinking supply and there is substantial evidence that the contamination was caused by a release from an underground storage tank.

(k) A public water system that determines that an oxygenate is detected at any level in groundwater supplies utilized by the public water system for drinking water purposes shall notify the department and a California regional water quality control board. The

department or a regional board shall determine whether to shut down or curtail the use of a well within 30 days following receipt of notification from a public water system.

(l)(1) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2010, deletes or extends that date.

(2) The repeal of this section does not terminate any of the following rights, obligations or authorities, or any provision necessary to carry out these rights or obligations:

(A) The filing and payment of claims in the fund, until the moneys in the fund are exhausted. Upon exhaustion of the fund, any remaining claims shall be invalid.

(B) The resolution of any cost recovery action.

(m) Any commitment made by the department on or after January 1, 2001, to expend funds pursuant to former Section 116367, as it read on December 31, 2001, is hereby ratified. The department may approve any expenses incurred by water systems pursuant to these commitments.

Health and Safety Code Section 116367.5.

The department shall establish a Research Advisory Committee, which shall consist of 11 members. The department shall provide for the support staff and meeting facility needs of the committee. The committee shall meet as necessary to review requests for research projects pursuant to paragraph (4) of subdivision (d) of Section 116367. The committee members shall be appointed by the director and shall consist of the following members:

(a) Four members representing public water systems.

(b) Four members representing entities paying into the Underground Storage Tank Cleanup Trust Fund created pursuant to Section 25299.50.

(c) One member representing environmental interest groups.

(d) One member representing consumer interest groups.

(e) One member representing the department.